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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,900	09/23/2004	Pamela Louise Amos	40735022/535000/US	3658
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Intellectual Property Dept. Dewitt Ross & Stevens SC 2 East Mifflin Street Suite 600 Madison, WI 53703-2865			EXAMINER WILSON, LEE D	
			ART UNIT 3723	PAPER NUMBER
			MAIL DATE 09/12/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/508,900

**Applicant(s)**

AMOS, PAMELA LOUISE

**Examiner**

LEE D. WILSON

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-25, 27, 28 and 30-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-25, 27-28, and 30-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because the abstract should be on a separate sheet. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 15 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Burian (3170182).

Burian discloses the claimed invention as recited in claims . Burian discloses an apparatus and method having teeth (16&30) being wedge shaped

5. Claims 15 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Breton (3053264).

Breton discloses the claimed invention as recited in claims . Breton discloses an apparatus and method having teeth (26) being wedge shaped including first and second sets, Lines, and/or arrays also having empty spaces. The method is merely the natural function of the claimed apparatus.

6. Claims 15 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Fox (671047).

Fox discloses the claimed invention as recited in claims . Fox discloses an apparatus and method having teeth (4) being wedge shaped including first and second sets, Lines, and/or arrays also having empty spaces. The method is merely the natural function of the claimed apparatus.

7. Claims 15 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Korindes (5297882).

Korindes discloses the claimed invention as recited in claims . Korindes discloses an apparatus and method having teeth (20) being wedge shaped including first and second sets, Lines, and/or arrays also having empty spaces. The method is merely the natural function of the claimed apparatus.

8. Claims 15 and 18-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Brickley (3999244).

Brickley discloses the claimed invention as recited in claims . Brickley discloses an apparatus and method having teeth (20&22) being wedge shaped including first and second sets, Lines, and/or arrays also having empty spaces. Brickley discloses parallel rows of teeth which are angled differently (see figs. 1 and 3, the curvature is not the same for each which changes the angle). The method is merely the natural function of the claimed apparatus.

9. Claims 15 and 18-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (191608).

Miller discloses the claimed invention as recited in claims . Miller discloses an apparatus and method having teeth (d & e) being wedge shaped including first and second sets, Lines, and/or arrays also having empty spaces. Brickley discloses parallel rows of teeth which are angled differently (see figs. 2 and 3, the teeth are reversed which changes the angle). The method is merely the natural function of the claimed apparatus.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breton (3053264), Korindes (5297882), and/or Fox (671047).

a. Breton (3053264), Korindes (5297882), and/or Fox (671047) discloses the claimed invention except for a range .7-.9 mm apart for the teeth. The claimed range would have been obvious because "a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. It this leads to the anticipated success, It is likely the product not of innovation but of ordinary skill and common sense." KSR.

***Response to Arguments***

1. **Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.**

a. In regard to the old method claims being rejected with the same art. The applicant is discussing the intended use of the prior art; however, the claim recites a method of restoring material which is anything. There is no real specific use of a method being claimed in regard to specific art being practiced. The method is generic to the field being practiced.

2. **Applicant has amended the claims to read over the prior art.**

- b. The new art has been applied to address these limitations. The applicant did read over the old art.

### ***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ldw

/LEE D WILSON/  
Primary Examiner, Art Unit 3723

September 11, 2008